



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/172457

PRELIMINARY RECITALS

Pursuant to a petition filed March 04, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on April 05, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined the petitioner's monthly FS allotment in the amount of \$506 for March 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

|

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She is a household size of five.
2. The petitioner was open and receiving monthly FS benefits. The petitioner completed a renewal for her FS benefits in February 2016. She reported and verified that she earns \$880 per month

from employment. She also verified that she pays \$400 per month in rent, and that she is responsible for all of her utilities.

3. On February 6, 2016 the agency sent the petitioner a notice stating that effective March 1, 2016 she would \$770 in monthly FS benefits.'
4. On February 6, 2016 the agency's system updated showing that the petitioner was open and active in the W-2 program. The system showed that she was eligible for \$653 in monthly W-2 benefits. In order to receive those benefits she had to participate in all of her W-2 hours.
5. Although the petitioner was eligible for \$653 in W-2 benefits in February 2016, she received \$18 due to lack of participation.
6. On February 6, 2016 the agency sent the petitioner a notice stating that effective March 1, 2016 her FS benefits would be reduced to \$506.
7. On March 4, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
8. In March 2016 the W-2 program's system updated showing that the petitioner received and was eligible for \$292 in W-2 benefits that month. The agency budgeted and counted this income in their prospective budget calculation for the petitioner's April 2016 FS benefits. The petitioner remained employed and her employment income was also counted. Based upon this updated W-2 information the petitioner's monthly FS benefits increased effective April 1, 2016. In April 2016 the system further updated, and the petitioner will receive another increase in her monthly FS benefits effective May 1, 2016.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 51 is \$197, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

When determining gross income the agency is required to count all W-2 income. *FS Wisconsin Handbook*, 4.3.4.2.13. The manual goes on to direct the agency not to increase a person's FS allotment when a person's "cash benefits under any other federal, state or local means-tested public assistance program are reduced for failure to perform an act required by the other program. *FS Wisconsin Handbook*, 7.1.7.7. This specifically includes the failure to comply with a work program, which includes W-2. *Id.*

In this case the petitioner argues that she was complying with the W-2 program, and that because she was working she did not have to complete her W-2 hours. She states that she was not eligible for \$653 in W-2 benefits in February 2016. The system shows that she was eligible for \$653 in W-2 benefits, and that she did not receive those benefits because she failed to participate. The petitioner did not present anyone from the W-2 agency to show that what the system is reporting is incorrect. At times the petitioner appears to have some understanding of the FS program and the W-2 program; however at other times she appears somewhat confused as to how each program works. This does not appear to be a mistake by the W-2 program because as of the date of hearing the information in the system for February 2016 remained the same. FS eligibility is determined prospectively. The February 2016 information is reflected in the

petitioner's March 2016 FS benefits. I find that the petitioner was eligible for \$653 in W-2 benefits in March 2016.

I note that the petitioner's FS benefits increased in April 2016, and increased further for May 2016. In March 2016 the W-2 agency reported reduced W-2 income. This information impacted the petitioner's April 2016 FS benefits. In April 2016 the W-2 agency provided a further reduced in W-2 income. This impacted the petitioner's May 2016 FS benefits.

CONCLUSIONS OF LAW

The agency correctly determined the petitioner's monthly FS allotment in the amount of \$506 for February 2016.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of April, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 7, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability